

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

### Notice of Intended Action

#### **Proposing rulemaking related to the dairy innovation program and providing an opportunity for public comment**

The Agriculture and Land Stewardship Department hereby proposes to amend Chapter 52, “Marketing,” Iowa Administrative Code.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in 2023 Iowa Acts, House File 700.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, 2023 Iowa Acts, House File 700.

#### *Purpose and Summary*

The proposed rulemaking implements 2023 Iowa Acts, House File 700, by creating rules for the Dairy Innovation Program.

The proposed rules create definitions, provide eligibility criteria, and establish the application and review process as well as criteria to score applications. The proposed rules also establish grant agreement terms and provide an explanation for how grant funds will be disbursed to awardees.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

#### *Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on October 13, 2023. Comments should be directed to:

Colin Tadlock  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa 50319  
Phone: 515.518.7609  
Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

#### *Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

October 13, 2023  
1 p.m.

Second Floor Conference Room  
Wallace State Office Building  
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Reserve rules **21—52.25** to **21—52.40**.

ITEM 2. Adopt the following new division heading after rule **21—52.40**:

DAIRY INNOVATION PROGRAM

ITEM 3. Adopt the following new rules 21—52.41(159) to 21—52.47(159):

**21—52.41(159) Definitions.** For purposes of this division:

“*Agreement*” means a contract for financial assistance under the program describing the terms on which the financial assistance is to be provided.

“*Applicant*” means a person applying for assistance under the program. This includes but is not limited to an individual or business.

“*Grant*” means an award of financial assistance with the expectation that, with the fulfillment of the conditions, terms, and obligations of the agreement with the department for the project, repayment of funds is not required by the recipient.

“*Project*” means an activity or activities undertaken by the applicant to be carried out to meet the goals of the program.

“*Recipient*” means a person who has applied for and been chosen to receive financial assistance through the program.

**21—52.42(159) Eligibility.**

**52.42(1) Eligible businesses.** The department has the sole authority in determining the eligibility of an applicant for participation in the program. To be eligible for a grant under the dairy innovation program, an applicant shall meet all the eligibility requirements in Iowa Code section 159.31A(4) as enacted by 2023 Iowa Acts, House File 700, as well as the following:

a. The business must currently be permitted by the department or actively working with the department to obtain a permit.

b. The business must not have been subject to any department license or permit suspension or revocation within the last five years from the date of the application submission.

**52.42(2) Eligible projects.** To be eligible for a grant under the program, a project shall meet the requirements of Iowa Code section 159.31A as enacted by 2023 Iowa Acts, House File 700, as well as the following requirements:

a. Not be in progress until a grant is awarded.

b. Be completed in 12 months or less.

c. Be conducted in Iowa.

**52.42(3) *Ineligible expenses.*** The following items are not eligible expenses under the program:

- a. Expenses incurred prior to the awarding of a grant.
- b. Start-up costs including but not limited to inventory, license, or permit fees or working capital.
- c. Advertising, public relations, or entertainment costs.
- d. Employee benefits and wages.
- e. Paying off existing debt, related collection costs, or legal costs.
- f. Paying off existing fines, penalties, or settlements from failure to comply with any applicable law or regulations.

**52.42(4) *Grant amount and terms.*** The maximum amount of financial assistance awarded to a recipient under the program shall not exceed \$100,000.

**21—52.43(159) Application and review process.**

**52.43(1)** The department will establish a uniform application process and make information about applying available on its website.

**52.43(2)** Applications will only be accepted during the times established by the department. Late submissions will not be accepted.

**52.43(3)** An applicant must demonstrate the ability to provide matching support for the project on a one-to-one basis. The matching financial support shall be from private sources.

**52.43(4)** A scoring committee established by the department will review and evaluate applications based on the scoring criteria described in rule 21—52.44(159).

**52.43(5)** Projects for processing and projects for labor-reducing technology will be scored independently of each other.

**52.43(6)** The department, after considering the recommendations made by the scoring committee, will determine which applications to fund and how much should be awarded to each applicant. The department has final decision-making authority on requests for financial assistance for the program. The department will notify the applicant in writing of the approval or denial.

**21—52.44(159) Scoring criteria.**

**52.44(1) *Application scoring.*** A scoring committee will be established by the department to evaluate applications with a score of 0 to 100. Projects receiving a score below 60 will not be considered.

**52.44(2) *Scoring criteria.*** The department will use the following criteria to evaluate each application:

- a. The extent to which the project addresses the goals of the program to create new jobs, expand opportunities and provide greater flexibility or convenience for local small-scale farmers, and reduce labor associated with the on-farm production and storage of milk: 25 points.
- b. The sufficiency of the project's budget and financing structure: 20 points.
- c. The sufficiency of the project's proposed work plan and timeline including a detailed description of the steps the applicant will take to complete the project as well as estimated dates: 20 points.
- d. The ability of the applicant to demonstrate sound business management, financial aptitude, and stability: 15 points.
- e. The extent to which measurable objectives can be determined that demonstrate the proposed project's benefit to the agriculture community: 10 points.
- f. The completeness of the application information and sufficiency of detail used to describe the project in the application: 10 points.

**21—52.45(159) Grant agreement.**

**52.45(1) *Agreement terms.*** An agreement shall not be for more than one year. The department, in its sole discretion, may grant an extension, not to exceed three months, if the department determines extenuating circumstances are likely to delay or have delayed the completion of the project.

**52.45(2) *Termination of agreement.*** An agreement shall be terminated if the recipient no longer meets the qualifications for an eligible business. Additionally, an agreement may be terminated if the recipient, in the sole opinion of the department, does any of the following:

- a.* Substantially violates any applicable statute or rule;
- b.* Violates any agreement between the department and the recipient; or
- c.* Acts in a manner that may damage the reputation of the program.

**21—52.46(159) Disbursement of funds.** The department will disburse funds for a project only after an agreement has been executed between the recipient and the department and all the applicable conditions for disbursement have been met, including the submission of documentation pertaining to the eligible expenditures. Disbursement of funds under the agreement will be on a reimbursement basis for expenses incurred by the applicant and will be disbursed upon final completion of a project.

**21—52.47(159) Authority of department.** The department may enter upon the premises of any recipient to examine any records or materials necessary to ensure compliance with these rules.

ITEM 4. Adopt the following new division implementation sentence after rule **25—52.47(159)**:  
This division is intended to implement 2023 Iowa Acts, House File 700.